

S/L 11
07.01.2025
Court. No. 3
Suvayan

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

WPA 2656 of 2024

**Arinjit Ghosh @ Tinku
Vs.
The State of West Bengal & Ors.**

*Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Ms. Sayantani Das
Ms. Debi Sarkar*

...for the petitioner.

*Mr. Momenur Rahman
Mr. Sandip Guha Roy*

...for the State.

1. The affidavit-of-service as filed in Court today is taken on record.
2. None appears on behalf of the respondent No. 2, i.e., the Chairman of Jalpaiguri Municipality though the writ petitioner and the respondent/State are represented by the respective Counsels.
3. In course of hearing Mr. Bhowmik, learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page No. 11 of the writ petition. It is contended that from the said document being Annexure – P1 of the instant writ petition it would reveal that the writ petitioner was an employee under the Jalpaiguri Municipality and he retired from his service on 31.01.2022. It was further submitted that after his retirement the writ petitioner was involved in a criminal case, however, he was enlarged on bail in connection with the said criminal case by a Division Bench of this Court in

CRM (DB) 469 of 2024 as it would reveal from Annexure P2 to the instant writ petition.

4. It is submitted that by issuing an Advocate's letter dated 24.06.2022 some information have been sought for by the writ petitioner from the respondent No. 2 authority but as on this day no reply as sought for under RTI Act, 2005 was received either by the writ petitioner or by the writ petitioner's learned Advocate.
5. In course of hearing Mr. Bhowmik places his reliance upon a judgment and order dated 07.11.2024 as passed in WPA 1860 of 2024 (Souvik Kunda vs. The State of West Bengal & Ors.) wherein a co-ordinate Bench of this Court directed for disbursal of retiral benefits to the writ petitioner in absence any disciplinary proceeding. It is submitted on behalf of the writ petitioner that to the best of the knowledge of the writ petitioner, as on this day, no disciplinary proceeding has been initiated against the writ petitioner and, therefore, there cannot be any justification on the part of the respondent No. 2 to disburse the retirement benefit in favour of the writ petitioner. It is thus submitted by Mr. Bhowmik an appropriate writ may be issued directing the respondent No. 2 to disburse the retirement benefit to the writ petitioner forthwith.
6. Learned Advocate for the State opposes such contention. It is, however, submitted by him that

the answering respondent would be the respondent No. 2, i.e., the Chairman of the Jalpaiguri Municipality and/or its functionaries.

7. As discussed hereinabove none appeared on behalf of the respondent No. 2 authority despite service.
8. On careful consideration of the entire materials as placed before this Court and after hearing the learned Counsel for the parties it appears to this Court that justice would be sub-served if the respondent No. 2, i.e., the Chairman of the Jalpaiguri Municipality is directed to consider the instant writ petition as a representation of the writ petitioner and to pass a reasoned order on such representation within a time framed after giving an opportunity of hearing to the writ petitioner.
9. It is thus directed that the respondent No. 2, i.e., the Chairman of the Jalpaiguri Municipality is hereby directed to consider the instant writ petition as a representation of the writ petitioner. The respondent No. 2 is further directed to give an opportunity of hearing either to the writ petitioner and/or to his learned Advocate and, thereafter shall pass a reasoned order on such representation and to communicate its decision forthwith to the writ petitioner preferably by mail, if mail details of the writ petitioner is furnished to the respondent No. 2 at the time of hearing.

10. It is further ordered that the entire exercise as indicated in the foregoing paragraph is to be completed within two months from the date of communication of this order.
11. The time limit as made by this Court mandatory and peremptory.
12. The respondent No. 2 is directed to act on the server copy of this order.
13. Liberty is given to the learned Advocate for the writ petitioner to communicate the server copy of this order to the respondent No. 2.
14. With the aforementioned observations, the instant writ petition being WPA 2656 of 2024 is disposed of.
15. Before parting with it is made clear that this Court has not gone into merits of the instant writ petition. Accordingly, the respondent No. 2 is at liberty to pass an appropriate reasoned order in accordance with law keeping in mind the proposition of law as passed in the order and judgment dated 07.11.2024 in WPA 1860 of 2024 (Souvik Kunda vs. The State of West Bengal & Ors.) by the co-ordinate Bench of this Court.
16. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)